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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,070	12/29/2000	Gin Liu	91436-332	6230

22463 7590 04/23/2004

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EXAMINER

JAMAL, ALEXANDER

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/750,070

Applicant(s)

LIU, GIN

Examiner

Alexander Jamal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1,2,4-9,15-20** rejected under 35 U.S.C. 102(e) as being anticipated by Liu et al. (6266395).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

As per **claims 1,2,4** Liu discloses a method to assess if a standard subscriber loop qualifies for DSL service (ABSTRACT). One step comprises modeling a representative loop of the subscriber loop (or segment) based on electrical characteristics that are determined at the CO (Col 2 line 45 to Col 3 line 45) (Col 4 lines 20-34). The subscriber loop may be modified with a repeater (Fig. 1 repeater 128). The repeater modified loop model has its bandwidth estimated to see if it is or is not suitable for an xDSL service.

As per **claim 15**, claim 15 rejected for the same reasons as claim 1 above, and the additional disclosure by Liu of a processor (Col 2 lines 48-65) able to perform the steps of claim 1.

As per **claims 19,20,5,6**, claims 19,20 rejected for the same reasons as claims 1,2 above, and the additional disclosure by Liu that the noise margin is approximated (calculated) (Col 9 line 10 to Col 10 line 65). The Computer readable medium is inherent to the system for the purpose of providing instructions to the processor.

As per **claims 7-9,16-18**, Liu discloses that the subscriber loop record of a database may be screened to disqualify a loop for DSL service, based upon an electrical characteristic or disqualifying condition (intercepted line, incompatible device or service) (Col 11 lines 30-55).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 10-14,21,22** rejected under 35 U.S.C. 103(a) as being unpatentable over Liu Et al. (6266395), and further in view of McGhee et al. (6658049).

As per **claims 10,21,22**, Liu discloses a computer implemented method of qualifying DSL loops as per the rejections of claims 1, 2, and also including the fact that Liu measures cable

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segments for electrical characteristics (Col 3 lines 1-15). Liu also discloses that the qualification (including the noise margin) could be done in a subscriber loop with a repeater (Fig. 1).

However Liu does not disclose using the method to determine the position of a DSL enabled repeater such that the loop segment between the repeater and CO qualifies for DSL service.

McGhee discloses an xDSL enabled repeater system (ABSTRACT) comprising a repeater that may be installed in a cable loop to enable DSL service (Col 1 lines 10-62). He further teaches that the DSL service is limited by the length (and all associated electrical interference) of the subscriber loop. It would have been obvious to one of ordinary skill in the art at the time of this application that Liu's method of measuring and qualifying cable segments could be used with an xDSL repeater to determine the repeater location on the loop for the reason that the loop qualification method will allow the repeater (or multiple repeaters) to be placed at the maximum possible distance while maintaining electrical integrity for DSL signals. This will maximize the efficiency of the repeater deployment by minimizing the number of repeaters/segments required for a particular loop.

As per **claims 11-14**, the claims are rejected for the same reasons as claim 10 above, and the fact that setting up the repeater locations to maximum distance inherently comprises the steps of qualifying the loop at various locations until the maximum acceptable level is found, and repeating the process for every repeater/segment of the loop for the reason that the number of repeaters/segments required for a particular loop will be minimized.

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5. **Claim 3** rejected under 35 U.S.C. 103(a) as being unpatentable over Liu Et al. (6266395) as applied to claim 1.

As per **claim 3**, Liu discloses that his method may be applied to xDSL loops (including HDSL). However, Liu does not disclose the method being used in an HDSL2 loop. It would have been obvious to one of ordinary skill in the art at the time of this application that the qualification method could be used on ANY xDSL signaling (such as HDSL2) for the reason that the method works with any xDSL system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Jamal whose telephone number is 703-305-3433. The examiner can normally be reached on M-F 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis A Kuntz can be reached on 703-305-4708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9315 for After Final communications.

AJ
April 16, 2004


CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
BIOLOGY CENTER 2600